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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation Against:

GEOFFREY RAMIREZ
15358 Ramona Avenue
Fontana, Calif. 92336

Respiratory Care Practitioner License No. 21716,

Respondent.

Case No. D1 2004 293

**ACCUSATION AND
PETITION TO REVOKE
PROBATION**

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about October 23, 2000, the Respiratory Care Board issued Respiratory Care Practitioner License Number 21716 to Geoffrey Ramirez (Respondent). The Respiratory Care Practitioner License was in effect at all times relevant to the charges brought herein and will expire on February 29, 2010, unless renewed.

3. In a disciplinary action entitled "In the Matter of Accusation Against Geoffrey Ramirez," Case No. R-1982, the Respiratory Care Board issued a decision, effective December 2, 2005, in which Respondent's Respiratory Care Practitioner License was revoked.

1 However, the revocation was stayed and Respondent's license was placed on probation for a
2 period of three (3) years with certain terms and conditions. A copy of that decision is attached as
3 Exhibit A and is incorporated by reference.

4 JURISDICTION

5 4. This Accusation and Petition to Revoke Probation is brought before the
6 Respiratory Care Board, Department of Consumer Affairs (Board), under the authority of the
7 following laws. All section references are to the Business and Professions Code unless otherwise
8 indicated.

9 5. Section 3710 of the Code states: "The Respiratory Care Board of
10 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
11 8.3, the Respiratory Care Practice Act]."

12 6. Section 3718 of the Code states: "The board shall issue, deny, suspend,
13 and revoke licenses to practice respiratory care as provided in this chapter."

14 7. Section 3750(j) of the Code states:
15 "The board may order the denial, suspension, or revocation of, or the imposition
16 of probationary conditions upon, a license issued under this chapter, for any of the following
17 causes:

18 "(j) The commission of any fraudulent, dishonest, or corrupt act which is
19 substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

20 "..."

21 8. Section 3750.5 of the Code states:

22 "In addition to any other grounds specified in this chapter, the board may
23 deny, suspend, or revoke the license of any applicant or license holder who has
24 done any of the following:

25 "(a) Obtained or possessed in violation of law, or except as directed by a
26 licensed physician and surgeon, dentist, or podiatrist administered to himself or
27 herself, or furnished or administered to another, any controlled substances as
28 defined in Division 10 (commencing with Section 11000) of the Health and Safety

1 Code, or any dangerous drug as defined in Article 2 (commencing with section
2 4015) of Chapter 9 of this code.

3 "(b) Used any controlled substance as defined in Division 10
4 (commencing with Section 11000) of the Health and Safety Code, or any
5 dangerous drug as defined in Article 2 (commencing with section 4015) of
6 Chapter 9 of this code.

7 "...

8 COST RECOVERY

9 9. Section 3753.5, subdivision (a) of the Code states:

10 "In any order issued in resolution of a disciplinary proceeding before the
11 board, the board or the administrative law judge may direct any practitioner or
12 applicant found to have committed a violation or violations of law to pay to the
13 board a sum not to exceed the costs of the investigation and prosecution of the
14 case."

15 10. Section 3753.7 of the Code states:

16 "For purposes of the Respiratory Care Practice Act, costs of prosecution
17 shall include attorney general or other prosecuting attorney fees, expert witness
18 fees, and other administrative, filing, and service fees."

19 11. Section 3753.1, subdivision (a) of the Code states:

20 "An administrative disciplinary decision imposing terms of probation may
21 include, among other things, a requirement that the licensee-probationer pay the
22 monetary costs associated with monitoring the probation."

23 FIRST CAUSE FOR DISCIPLINE

24 [Obtained and used controlled substance; B&P Code Sections 3750.5(a) and (b)]

25 12. Respondent is subject to disciplinary action under Code Sections
26 3750.5(a) 3750.5(b), in that he obtained or possessed and used a controlled substance. The facts
27 and circumstances are as follows:

28 ///

1 13. As a condition of his probation as detailed above in paragraph 3 above
2 Respondent was obligated to provide urine specimens for testing and analysis.

3 14. On January 2, 2008, Respondent provided a urine specimen for testing and
4 analysis. On January 11, 2008, the Board received a laboratory report indicating a positive result
5 for Amphetamines at a level of 560 nanograms per milliliter and Methamphetamine at a level
6 greater than 10000 nanograms per milliliter. Both results register over the established laboratory
7 cutoff level. Furthermore, the D/L Amphetamine ratio was 27. The D/L Methamphetamine ratio
8 was 14. These ratios indicate that the Methamphetamine found in Respondent's system is likely
9 the result of the use of a Schedule II central nervous system stimulant, D-methamphetamine.

10 15. These results thus confirm that Respondent obtained, possessed and used a
11 controlled substance in violation of Code sections 3750.5(a) and (b).

12 SECOND CAUSE FOR DISCIPLINE

13 [Commission of a fraudulent, dishonest act; B&P Section 3750(j)]

14 16. Respondent is further subject to disciplinary action in that he engaged in
15 an act of dishonesty under Section 3750(j) in that he failed to provide a truthful response
16 regarding his use of any prescribed medication, narcotic or drug in a drug questionnaire he
17 completed and signed.

18 17. In the Drug Questionnaire, question number 1, which Respondent
19 completed and signed subject to penalty of perjury dated January 15, 2008, Respondent answered
20 "no" to the following question: "In the past month, have you used or ingested any prescribed
21 medication, narcotic or drug?"

22 18. In fact, contrary to this answer, Respondent tested positive for
23 Amphetamine and Methamphetamine.

24 THIRD CAUSE FOR DISCIPLINE

25 [Commission of a fraudulent, dishonest act; B&P Section 3750(j)]

26 19. Respondent is further subject to disciplinary action in that he engaged in
27 an act of dishonesty under Section 3750(j) in that he failed to provide a truthful response
28 regarding his use of any prescribed medication, narcotic or drug in a drug questionnaire he

completed and signed.

20. On or about September 27, 2005 Respondent signed his Stipulated Settlement and Disciplinary Order under penalty of perjury. With respect to the “Quarterly Reports,” condition number 7, it advised Respondent as follows: “Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent’s respiratory care practitioner license.”

21. In the Quarterly Report of Compliance, question number 1, which Respondent completed and signed subject to penalty of perjury dated January 1, 2008, he answered “yes” to the following question: “Have you complied with every term and condition of your probation?”

22. Accordingly, contrary to this answer in the Quarterly Report, Respondent failed to abstain from drugs and alcohol in that he tested positive for Amphetamine and Methamphetamine.

FOURTH CAUSE FOR DISCIPLINE

[Commission of a fraudulent, dishonest act; B&P Section 3750(j)]

23. Respondent is further subject to disciplinary action in that he engaged in an act of dishonesty under Section 3750(j) in that he failed to provide a truthful response regarding his employment status.

24. In the Quarterly Report of Compliance, question number 3, which Respondent completed and signed subject to penalty of perjury dated January 1, 2008, he answered “no” to the following question: “Have you resigned from any employment or has your employment been terminated?”

25. In fact, Respondent was terminated from East Valley Hospital on November 4, 2007.

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1 this violation are as follows:

2 28. Respondent failed to submit to biological fluid specimen testing on March
3 10, 2007 as required as a condition of his probation.

4 SECOND CAUSE TO REVOKE PROBATION

5 (Failure to participate and cooperate in random drug testing)

6 29. At all times after the effective date of Respondent's probation, Condition 2
7 of the Disciplinary Order stated:

8 "2. BIOLOGICAL FLUID TESTING Respondent, at his expense, shall
9 participate in random testing, including, but not limited to, biological fluid testing
10 (i.e. urine, blood, saliva), breathalyzer, hair follicle testing, or a drug screening
11 program approved by the Board. Test costs range from \$21.00 to \$200.00 each.
12 The length of time shall be for the entire probation period. The frequency and
13 location of testing will be determined by the Board.

14 "At all times, Respondent shall fully cooperate with the Board or any of its
15 representatives, and shall, when directed, submit to such tests and samples for the
16 detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled
17 substances.

18 "If Respondent is unable to provide a specimen in a reasonable amount of
19 time from the request, while at the work site, Respondent understands that any
20 Board representative may request from the supervisor, manager or director on
21 duty to observe Respondent in a manner that does not interrupt or jeopardize
22 patient care in any manner until such time Respondent provides a specimen
23 acceptable to the Board.

24 "Failure to submit to testing or appear as requested by any Board
25 representative for testing, as directed shall constitute a violation of probation and
26 shall result in the filing of an accusation and/or a petition to revoke probation
27 against Respondent's respiratory care practitioner license.

28 "..."

1 30. As part of Respondent's obligation under Condition 2 to participate in
2 random drug testing respondent agreed to call a designated automated toll-free phone number,
3 the drug testing telephone system, on a daily basis. This system is operated by Compass Vision,
4 Inc. He understood, further, that his failure to call this number on a daily basis would constitute
5 a violation of his probation and further disciplinary action may occur.

6 31. On the following dates he failed to call this system: June 28, 2007; July
7 14, 2007; August 19, 2007; September 28, 2007; October 31, 2007; December 1, 2007;
8 December 9, 2007; January 30, 2008; February 13, 2008; February 15, 2008; February 19, 2008;
9 February 29, 2008, March 2, 2008, March 10, 2008 and March 11, 2008.

10 32. As a result of his repeated failure to call the telephone drug testing system
11 respondent violated Condition 2 of the terms of his probation in that he failed to cooperate and
12 participate in random drug testing.

13 SECOND CAUSE TO REVOKE PROBATION

14 (Abstention From Use of Mood Altering Substances)

15 33. At all times after the effective date of Respondent's probation, Condition 3
16 of the Disciplinary Order stated:

17 "3. ABSTENTION FROM USE OF DRUGS AND ALCOHOL

18 Respondent shall completely abstain from the possession or use of alcohol,
19 controlled substances, dangerous drugs, and any and all other mood altering drugs,
20 substances and their associated paraphernalia, except when the drugs are lawfully
21 prescribed by a licensed practitioner as part of a documented medical treatment.

22 "Respondent shall execute a release authorizing the release of pharmacy
23 and prescribing records as well as physical and mental health records. Respondent
24 shall also provide information of treating physicians, counselors or any other
25 treating professionals as requested by the Board.

26 "Respondent shall ensure that he is not in the presence of or in the same
27 physical location as individuals who are using illegal substances, even if
28 Respondent is not personally ingesting the drug(s).

1 “Any positive result that registers over the established laboratory cutoff
2 level shall constitute a violation of probation and shall result in the filing of an
3 accusation and/or a petition to revoke probation against Respondent’s respiratory
4 care practitioner license.

5 “Respondent also understands and agrees that any positive result that registers
6 over the established laboratory cutoff level shall be reported to each of Respondent’s employers.

7 “. . .”

8 34. Respondent’s probation is subject to revocation because he failed to
9 comply with Probation Condition 3. Specifically, Respondent failed to abstain from the use of
10 dangerous drugs. The facts and circumstances regarding this violation are as follows:

11 35. On January 2, 2008, Respondent provided a urine specimen for testing and
12 analysis. On January 11, 2008, the Board received a laboratory report indicating a positive result
13 for Amphetamines at a level of 560 nanograms per milliliter and Methamphetamine at a level
14 greater than 10000 nanograms per milliliter. Both results register over the established laboratory
15 cutoff level. Furthermore, the D/L Amphetamine ratio was 27. The D/L Methamphetamine ratio
16 was 14. These ratios indicate that the Methamphetamine found in Respondent’s system is likely
17 the result of the use of a Schedule II central nervous system stimulant, D-methamphetamine.

18 FOURTH CAUSE TO REVOKE PROBATION

19 (Probation Monitoring Costs)

20 36. At all times after the effective date of Respondent’s probation, Condition 8
21 states:

22 “8. PROBATION MONITORING COSTS All costs incurred for
23 probation monitoring during the entire probation shall be paid by the Respondent.
24 The monthly cost may be adjusted as expenses are reduced or increased.
25 Respondent’s failure to comply with all terms and conditions may also cause this
26 amount to be increased.

27 “All payments for costs are to be sent directly to the Respiratory Care
28 Board and must be received by the date(s) specified. (Periods of tolling will not

1 toll the probation monitoring costs incurred.)

2 “If Respondent is unable to submit costs for any month, he shall be
3 required instead to submit an explanation of why he is unable to submit the costs,
4 and the date(s) he will be able to submit the costs including payment amount(s).
5 Supporting documentation and evidence of why the Respondent is unable to make
6 such payment(s) must accompany this submission.

7 “Respondent understands that failure to submit costs timely is a violation
8 of probation and submission of evidence demonstrating financial hardship does
9 not preclude the Board from pursuing further disciplinary action. However,
10 Respondent understands providing evidence and supporting documentation of
11 financial hardship may delay further disciplinary action.

12 “In addition to any other disciplinary action taken by the Board, an
13 unrestricted license will not be issued at the end of the probationary period and the
14 respiratory care practitioner license will not be renewed, until such time all
15 probation monitoring costs have been paid.

16 “The filing of bankruptcy by Respondent shall not relieve the Respondent
17 of his responsibility to reimburse the Board for costs incurred.

18 “. . .”

19 37. Respondent’s probation is subject to revocation because he failed to
20 comply with Probation Condition 9. The facts and circumstances regarding this violation are as
21 follows:

22 38. Respondent is in arrears in the amount of \$500.00 towards his probation
23 monitoring costs.

24 FIFTH CAUSE TO REVOKE PROBATION

25 (Change of Employment or Residence)

26 39. At all times after the effective date of Respondent’s probation, Condition
27 12 stated:

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“12. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall notify the Board, and appointed probation monitor, in writing, of any and all changes of employment, location, and address within 14 days of such change. This includes, but is not limited to, applying for employment, termination or resignation from employment, change in employment status, change in supervisors, administrators or directors.

“Respondent shall also notify his probation monitor AND the Board IN WRITING of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for mailing purposes, however the Respondent must also provide his physical residence address as well.

“ ”
 . . .

40. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 12. The facts and circumstances of this violation are as follows:

41. Respondent failed to notify the Board that his employment status with East Valley Medical Center changed. He was terminated from East Valley Medical Center on November 4, 2007.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking the probation that was granted by the Respiratory Care Board of California in Case No. R-1982 and imposing the disciplinary order that was stayed thereby revoking Respiratory Care Practitioner License No. 21716 issued to Geoffrey Ramirez;

2. Revoking or suspending Respiratory Care Practitioner License No. 21716,
issued to Geoffrey Ramirez;

3. Ordering Geoffrey Ramirez to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if probation is continued or extended, the costs of probation monitoring;

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4. Taking such other and further action as deemed necessary and proper.

DATED: March 24, 2008

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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